

## Department of Energy

this section unless he knew of non-compliance by the corporation, or had received from OFE notice of non-compliance by the corporation.

(2) Purposes of this paragraph:

(i) *Agent* includes any employee or other person acting on behalf of the corporation on either a temporary or permanent basis; and

(ii) *Notice of noncompliance* is a final Fuel Use Order issued under §501.167 of this part.

[46 FR 59889, Dec. 7, 1981, as amended at 62 FR 46183, Sept. 2, 1997; 74 FR 66032, Dec. 14, 2009]

### §501.182 Injunctions.

Whenever it appears to OFE that any person has committed, is committing, or is about to commit a violation of any provision of the Act, or any rule or order thereunder, OFE may, in accordance with section 724 of FUA, bring a civil action in the appropriate United States District Court to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such provision, order or rule, the violation of which is prohibited by section 724 of FUA and may also include interim equitable relief.

### §501.183 Citizen suits.

(a) *General.* A person who believes he is aggrieved by the failure of OFE to perform any nondiscretionary act of duty under the Act may file a Petition for Action for OFE to take such action as he may feel to be proper. This petition must be filed at the address provided in §501.11. The petition must specify the action requested and set forth the facts and legal arguments that constitute the basis for the request. The filing of a Petition for Action will serve as notice to OFE under FUA section 725(b) for purposes of any citizens suit that may be subsequently filed.

(b) *OFE decision.* Within sixty (60) days of receiving the Petition for Action, OFE will notify the person giving notice under this section that it has instituted the action requested or that other described action is being taken, or that other described action is being

taken, or that no action is being taken and the reasons therefor.

## Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

### §501.190 Purpose and scope.

(a) If a person operates a powerplant covered by any of the prohibitions of titles II, III, or IV of FUA, §501.191 of this subpart establishes procedures to be followed for the use of minimum amounts of natural gas or petroleum under FUA section 103(a)(15)(B) in order to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public health, safety, or welfare that would result from electric power outages.

(b) *Explanatory note:* If a person operates a rental boiler as a powerplant covered by any of the prohibitions of titles II, III, or IV of FUA, he may be able to use the provisions of this subpart for the emergency use of natural gas or petroleum.

[54 FR 52893, Dec. 22, 1989]

### §501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in section 103(a)(15)(B) of the act.

(a) In the event of the occurrence or imminent occurrence of an emergency, or of the occurrence or imminent occurrence of an unanticipated equipment outage in the unit, an owner or operator of a powerplant is automatically permitted to use minimum amounts of natural gas or petroleum in the unit or in a substitute unit to prevent or alleviate the outage or to prevent or alleviate the emergency if he complies with procedures contained in paragraph (b) of this section.

(b) If the use of minimum amounts of petroleum or natural gas is required for purposes specified in this section, the owner or operator must notify OFE of such use by telegram or telephone within 24 hours after the commencement of such use. Immediately thereafter a written confirmation must be submitted to OFE, describing, to the best estimate of the owner or operator,

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(1) the nature of the emergency and (2) how long petroleum or natural gas use is likely to be required.

(c) For purposes of this section only:

(1) An *emergency* is the occurrence or threat of imminent occurrence of a condition which results or would result from an electric power outage and directly effects or would directly effect the public health, safety or welfare;

(2) *Unanticipated equipment outage* shall mean an unexpected outage due to equipment failure.

(3) *Minimum amounts required to alleviate or prevent* shall mean:

(i) For powerplants, the amounts of natural gas or petroleum required to prevent curtailment of electric supply where the operating utility has, to the maximum extent possible, utilized alternate fuel-fired capacity to prevent such curtailment. Note—A utility operating hydroelectric facilities may take into account seasonal fluctuations in storage capacity and shall be permitted to prevent depletion of stored power-producing capacity as deemed necessary by the utility; and

(ii) For installations, the amounts of natural gas or petroleum required to meet plant protection or human health and safety needs, including services to hospitals, public transportation facilities, sanitation, or water supply and pumping.

[46 FR 59889, Dec. 7, 1981, as amended at 54 FR 52893, Dec. 22, 1989]

## § 501.192 [Reserved]

### PART 503—NEW FACILITIES

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503.39–503.44 [Reserved]

AUTHORITY: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. § 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); Energy Security Act, Pub. L. 96–294, 94 Stat. 611 (42 U.S.C. 8701 *et seq.*); E.O. 1209, 42 FR 46267, September 15, 1977.

SOURCE: 46 FR 59903, Dec. 7, 1981, unless otherwise noted.

(OMB Control No.: 1903–0075. See 46 FR 63209, Dec. 31, 1981.)

#### Subpart A—General Prohibition

##### § 503.1 Purpose and scope.

This subpart sets forth the statutory prohibition imposed by the Act upon new powerplants. The prohibition in the subpart applies to all new baseload